

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

Angela Ylinen,

Plaintiff,

v.

Fifth Third Bank,

Defendant.

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Civil Action No.: _____

DEMAND FOR JURY TRIAL

COMPLAINT & JURY DEMAND

For this Complaint, the Plaintiff, Angela Ylinen, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et. seq.* (the "TCPA").
2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that the Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

3. The Plaintiff, Angela Ylinen ("Plaintiff"), is an adult individual residing in Mount Morris Township, Michigan, and is a "person" as defined by 47 U.S.C. § 153(39).
4. Defendant Fifth Third Bank ("Fifth"), is a Ohio business entity with an address of 38 Fountain Square Plaza, Cincinnati, Ohio 45263, and is a "person" as defined by 47 U.S.C. § 153(39).

FACTS

5. In or around December 2013, Fifth began placing calls to Plaintiff's cellular telephone number.

6. At all times mentioned herein, Fifth placed calls to Plaintiff's cellular telephone, number 810-xxx-5803, using an automatic telephone dialing system ("ATDS") and/or by using an artificial or prerecorded voice.

7. When Plaintiff answered calls from Fifth he heard a recording instructing Plaintiff to remain on the line to be connected to a live representative from Fifth.

8. Plaintiff has a business relationship with Fifth and had originally provided his cellular telephone number and consent to be contacted on his cellular telephone number by Fifth.

9. However, Fifth no longer had consent to place calls to Plaintiff's cellular telephone number after Plaintiff requested in late December 2013 that the calls to his cellular telephone cease.

10. Nonetheless, Fifth continued to place calls to Plaintiff's cellular telephone knowing that it no longer had consent to do so.

COUNT I

**VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT –
47 U.S.C. § 227, et seq.**

11. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

12. At all times mentioned herein and within the last year, Fifth called Plaintiff on her cellular telephone using an ATDS or predictive dialer and/or by using a prerecorded or artificial voice.

13. Plaintiff revoked her consent to be contacted on her cellular telephone and instructed Fifth to stop all calls to her and cease calling her cellular telephone.

14. Fifth continued to place automated calls to Plaintiff's cellular telephone after being advised by Plaintiff that there was no consent to continue the calls. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

15. The telephone number called by Fifth was assigned to a cellular telephone service for which Plaintiff incurs charges for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

16. The calls from Fifth to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).

17. As a result of each call made in negligent violation of the TCPA, Plaintiff is entitled to an award of \$500.00 in statutory damages for each call placed in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

18. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against Defendant:

1. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
2. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C); and
3. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: March 3, 2014

Respectfully submitted,

By: /s/ Sergei Lemberg, Esq.
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